IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

MONDAY, THE 12TH NOVEMBER 2007 / 21ST KARTHIKA 1929

Crl.Rev.Pet.No. 3942 of 2007()

AGAINST THE ORDER DATED 09/10/2007 IN CMP.3618/2007 IN CC.102/2005 of JUDL.MAGISTRATE OF FIRST CLASS-II, THAMARASSERY

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REVN. PETITIONER: PETITIONERS/ACCUSED

1. K.GIREESAN, S/O. K.V.RAMAN MENON,
   'KAIVALYAM', 38/332 A, NANDANAM,
   KARITHALA CROSS, KARSHAKA ROAD, COCHIN-16.

2. M.B.MOHAN, S/O. BHASKARAN,
   PLOT NO.135, 'SAGARIKA', 1ST FLOOR, JAWAHAR NAGAR,
   KADAVANTHRA, KOCHI-20.

3. PRAKASH VASUDEVAN,
   89 A, 9TH FLOOR, VICTORIA GARDEN, HUNDRED FT.
   ROAD, GOVAMBEDU, CHENNAI-600 107.

BY ADV. SRI.M.C.JOHN

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM, REPRESENTING THE FOREST RANGE OFFICER,
THAMARASSERY. (O.R. 9/2001).

BY PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 12/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR , J

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CRL. R.P. NO. 3942 OF 2007

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Dated this the 12th day of November, 2007.

ORDER

The petitioners three in number are accused Nos. 1 to 3 in C.C. No. 102/2005 on the file of Judicial First Class Magistrate-II, Thamarassery. The offences alleged against the petitioners are under Sections 27(1)(e)(i)(ii)(iii) and (iv) of the Kerala Forest Act r/w Section 2(ii)(iv) of the Forest (Conservation) Act, 1980. The order impugned in this revision is one dated 09.10.2007 passed by the Judicial First Class Magistrate-II, Thamarassery refusing to entertain the application filed as C.M.P. No. 3618/2007 by the petitioners seeking discharge. As rightly observed by the Magistrate when once the charge has been framed against the accused, there cannot be any discharge. Hence the petition filed as C.M.P. No. 3618/2007 by the revision petitioner before the court below was dismissed. No interference was called for in the matter.

2. No doubt, the revision petitioners have a contention that even after the cognizance by the criminal court the offences are

compoundable by the department under Section 68 of the Kerala Forest Act 1961. That is a matter which the petitioners can separately request the Magistrate to consider. If the petitioners file an application for compounding under Section 68 of the Act, the feasibility of composition as contended by the revision petitioners can be considered by the Magistrate. Hence, without prejudice to the right of the revision petitioners to move the Magistrate for permission (if it is necessary) to compound the offence, this revision is dismissed.

Issue carbon copy.

V. RAMKUMAR, JUDGE.

rv